

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC MAIL SECTION

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DA 94-1115

DISPATCHED BY

In the Matter of)
)
Petition of People of the State of California and) PR Docket No. 94-105
the Public Utilities Commission of the State of)
California to Retain Regulatory Authority Over)
Intrastate Cellular Service Rates)

**ORDER WAIVING CERTAIN PLEADING RULES AND DENYING DEFERRAL OF
FILING DATES**

Adopted: October 7, 1994; Released: October 7, 1994

By the Chief, Private Radio Bureau:

1. The Commission's rule governing the filing of pleadings in this proceeding contemplates only the filing of comments and replies on the state's petition to retain authority over intrastate cellular rates. It thus excludes Section 1.45,¹ which governs the general filing periods for motions, from the procedural rules which may apply.² This proceeding, however, raises confidentiality issues that have generated the filing of several motions and requests.³

¹ 47 C.F.R. § 1.45.

² Second Report and Order, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, 1522 (1994), 59 Fed. Reg. 18493 (Apr. 19, 1994) (to be codified at 47 C.F.R. § 20.13 (a)(5)).

³ See, e.g., Motion of the Cellular Carriers Association of California to Reject Petition or, Alternatively, Reject Redacted Information (Sept. 19, 1994); Request for Access to California Petition for State Regulatory Authority Pursuant to the Terms of a Protective Order, filed by the National Cellular Resellers Association (Sept. 19, 1994); Emergency Motion to Compel Production to the California Public Utilities Commission of Information Contained in Oppositions to California's Petition to Retain State Regulatory Authority over Intrastate Cellular Service Rates (dated Sept. 29, 1994).

We have also received PR Docket No. 94-105 Notice of Ex Parte Contact and Request for Issuance of a Public Notice (Sept. 23, 1994), filed by the National Cellular Resellers Association (NCRA), asking that the Commission issue a Public Notice permitting any interested party to participate by telephone or in person in a September 30, 1994 meeting on confidentiality issues. All parties to the proceeding were given actual notice of the meeting and permitted to participate either in person or by telephone. Moreover, on September 30, 1994, the

2. We believe that equity requires that we permit interested parties to file nonfrivolous pleadings on confidentiality and related issues. We thus waive the prohibition of Section 20.13 on additional pleadings, and permit necessary additional pleadings to be filed pursuant to the terms of Section 1.45 of the Commission's Rules.

3. We have also received a Motion to Defer Filing Dates.⁴ Movants ask that we defer the filing of replies, due October 19, 1994, to either (1) two weeks after opposing parties file any supplemental comments based on the disclosure of confidential information or (2) two weeks after the Commission issues a decision denying access to such confidential information. Movants contend that if additional information is disclosed, this will require supplemental pleadings that will duplicate the October 19 replies and "needlessly expand the number of pleadings (and the time involved) for consideration by the Commission."⁵ They argue that a grant of the Motion will expedite review by permitting the filing of a consolidated reply. They add that if additional disclosure is not made, and the Commission moves quickly in reaching that decision, the proposed procedure will result in only minimal delay.⁶

4. We deny the Motion. As we explained in a recent order granting the parties a 15-day extension to file replies, the Commission must meet a one-year statutory deadline for ruling on the state's petition and deciding any reconsideration. We stressed that, "The Commission is faced with stringent statutory deadlines in a complex and massive proceeding." ⁷ Although we agree with Movants that disclosure of additional information may require that we permit the parties to supplement their comments, we cannot now predict whether such additional disclosure will be necessary. We believe that efficient administration and docket management requires adherence to the October 19, 1994 deadline for filing replies in this proceeding. For the foregoing reasons, we do not believe that good cause has been shown for the requested deferral.

Commission issued a Public Notice of Comment Sought on Draft Protective Order, DA 94-1083, announcing that all interested parties could comment by October 7, 1994 on a draft protective agreement that had been distributed to all parties of record. We believe that these actions have rendered the NCRA request moot and we dismiss it on that ground.


⁴ Motion to Defer Filing Dates (Motion) of Cellular Resellers Association, Cellular Service, Inc. and ComTech Mobile Telephone Co. (Oct. 4, 1994)(collectively Movants).

⁵ Motion at 3.

⁶ Motion at 3-4.

⁷ Order Extending Time and Permitting Replies to Revised Petition, DA 94-1054 (Sept. 26, 1994) at 1-2.

5. Pursuant to Section 0.331 of the Commission's Rules,⁸ the provisions of Section 20.13(a)(5) are WAIVED TO THE EXTENT INDICATED HEREIN, the Motion to Defer Filing Dates filed by Cellular Resellers Association, Inc., Cellular Service, Inc., and ComTech Mobile Telephone Company IS DENIED, and PR Docket No. 94-105 Notice of Ex Parte Contact and Request for Issuance of a Public Notice IS DISMISSED AS MOOT TO THE EXTENT INDICATED HEREIN.


Gerald P. Vaughan, Deputy Chief
Private Radio Bureau

⁸ 47 C.F.R. § 0.331.